

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA)	
)	2: 09-cr-00005
v.)	
)	
CHRISTINA MARIE KORBE)	

MEMORANDUM ORDER

Presently before the Court is the MOTION OF PETITIONER FOR MODIFICATION OR REDUCTION OF SENTENCE PURSUANT TO 18 U.S.C. § 3553 QUOTING “JASON PEPPER VS. UNITED STATES” SUPREME COURT 2011 (ECF No. 427) filed pro se by Defendant Christina Marie Korbe (“Korbe”). The government filed a response in opposition to the motion and it is ripe for disposition.

This criminal case arose out of the tragic death of FBI Special Agent Samuel Hicks (“Hicks”). On November 19, 2008, Korbe shot Hicks as he and other law enforcement officers were attempting to execute an arrest warrant for Korbe’s husband, Robert Ralph Korbe, at the family home. On January 18, 2011, Korbe and the government entered into a plea agreement. As relevant to the instant motion, in the plea agreement Korbe agreed: (1) to plead guilty to a lesser, included offense in Count 1 and to Count 3 of the Superseding Indictment at Criminal Case No. 09-5; (2) to be sentenced to a term of imprisonment of 70 months at Count 1 and to a term of imprisonment of 120 months at Count 3, to be served consecutively, for a total of 190 months of imprisonment; and (3) to waive her right to file a motion or any other collateral proceeding attacking her conviction or sentence. The Court accepted the plea agreement reached by the parties and sentenced Korbe accordingly.

Korbe now seeks a sentence reduction due to her post-conviction rehabilitation activities, which include employment while incarcerated, participation in various educational and “life

skills” programs offered by the correctional institution, correspondence with her family, and remorse for her criminal conduct. The Court encourages Korbe to continue these activities.

The government contends that this Court lacks jurisdiction to reduce Korbe’s sentence. The Court agrees with the government. Pursuant to 18 U.S.C. § 3582(c), the Court “may **not** modify a term of imprisonment once it has been imposed” unless a Defendant meets one of the narrow exceptions set forth in that section. (Emphasis added). Korbe’s alleged post-sentence rehabilitative efforts do not satisfy any of the exceptions set forth in § 3582(c). Nor does *Pepper v. United States*, 131 S. Ct. 1229 (2011) (cited by Korbe in the caption of her motion) apply, because Korbe’s sentence has not been set aside on appeal and remanded for re-sentencing.

AND NOW, this 1st day of November, 2013, in accordance with the foregoing, it is hereby **ORDERED, ADJUDGED AND DECREED** that the MOTION OF PETITIONER FOR MODIFICATION OR REDUCTION OF SENTENCE PURSUANT TO 18 U.S.C. § 3553 QUOTING “JASON PEPPER VS. UNITED STATES” SUPREME COURT 2011 (ECF No. 427) is **DENIED**. Further, the Court hereby certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would be plainly frivolous and not in good faith, such that Korbe will not be permitted to pursue an appeal in forma pauperis. *See United States v. Kirby*, 2013 WL 2896801 (N.D. Ala. 2013).

BY THE COURT:

s/ Terrence F. McVerry
United States District Court Judge

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